

Message Text

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ORIGIN EB-07

INFO OCT-01 EUR-12 IO-10 ISO-00 TRSE-00 COME-00 STR-04 L-03

TAR-01 H-02 /040 R

DRAFTED BY EB/OT/TA:DGRIMMER :LV/TREASURY:COUE

APPROVED BY EB/OT/TA:WGBARRACLOUGH

COMMERCE:MPRUIETT

STR:HPOMERANZ

EUR/CAN:DHOLTON

----- 026502

R 022322Z JUN 75

FM SECSTATE WASHDC

TO AMEMBASSY OTTAWA

INFO USMISSION GENEVA

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E.O. 11652: N/A

TAGS: ETRD, CA

SUBJECT: REMISSION OF CUSTOMS DUTYS ON FOREIGN AUTOMOBILES
WITH CANADIAN COMPONENTS

REF: (A) OTTAWA 1924, (B) OTTAWA 1500

1. IN ORDER TO JUDGE IMPLICATIONS OF RECENT GOC ORDER-IN-COUNCIL ("AUTOMOTIVE COMPONENTS REMISSIONS ORDER") EFFECTIVE MAY 6 EMBASSY IS REQUESTED TO DETERMINE IN GREATER DETAIL HOW REMISSION OF PORTION OF CUSTOMS DUTY AND SALES TAX WILL WORK IN PRACTICE. US IS PARTICULARLY CONCERNED ABOUT REPORT IN THE CITIZEN, MAY 20, PG. 10, WHICH SUGGESTS THE DUTY REMISSION WOULD NOT JUST EXTEND TO THE VALUE OF THE CANADIAN PARTS BUT WOULD BE APPLIED TO THE DUTY ON THE CAR ITSELF UP TO THE VALUE OF ALL CANADIAN AUTO PARTS SHIPPED TO THE EXPORTING COUNTRY. COULD EMBASSY CLARIFY THE STATUS OF IMPORTS OF US MOTOR VEHICLES NOT COVERED BY DUTY FREE TREATMENT UNDER THE US-CANADA AUTOMOTIVE AGREEMENT? CAN WE ASSUME THESE WILL ALSO BENEFIT FROM DUTY

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AND SALES TAX REMISSIONS?

2. IT IS NOT ENTIRELY CLEAR TO US HOW THE "REMISSION" OF PORTION OF THE FEDERAL SALES TAX IS CALCULATED. DOES THIS REMISSION REFER TO THE DECREASE IN SALES TAX CHARGED BECAUSE TARIFFS ARE INCORPORATED IN THE VALUE ON WHICH SALES TAX IS LEVIED?

3. WE WOULD ALSO APPRECIATE EMBASSY SEEKING CLARIFICATION OF GOC USE OF "REMISSION" SINCE THIS IMPLIES A FULL DUTY PAYMENT A PART OF WHICH (CORRESPONDING TO THE DUTY ON THE VALUE OF THE CANADIAN PARTS) IS "REMITTED." WHILE THE US DOES NOT WISH TO DRAW GOC OFFICIALS INTO SEMANTIC DEBATE, IS IT CORRECT TO ASSUME THAT PROGRAM IS DESIGNED TO EXCLUDE THE VALUE OF THE CANADIAN PARTS WHEN DUTY ON THE AUTOMOBILE IS ASSESSED? TECHNICALLY, THIS WOULD NOT SEEM TO BE REMISSION.

4. SINCE THE GOC MAY STATE, AS IN REF (B), THAT THIS PROGRAM IS AKIN TO U.S. LAWS ON DRAWBACK, IN RESPONDING EMBASSY OFFICIALS SHOULD NOTE THAT GOC ACTION IS FUNDAMENTALLY DIFFERENT FROM OUR OWN LAWS IN THIS AREA. DRAWBACK IN THE U.S. REFERS TO OUR PRACTICE (AND THAT OF MANY GATT MEMBERS) OF ALLOWING AN IMPORTER TO DRAWBACK THE U.S. DUTY PAID ON AN IMPORTED ITEM WHEN THAT ITEM IS LATER EXPORTED OUT OF THE U.S. "SUBSTITUTION FOR DRAWBACK" IS USED IN THE CASE WHEN IMPORTED GOODS ARE CO-MINGLED WITH SIMILAR DOMESTIC GOODS AND THE PRECISE IDENTIFICATION AND ORIGIN OF THE ITEMS ULTIMATELY EXPORTED ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE. SINCE AN IMPORTER IS ALLOWED TO DRAWBACK THE U.S. DUTY ON FOREIGN ITEMS RE-EXPORTED, U.S. LAW ALLOWS DRAWBACK ON THE EXPORTED ITEMS UP TO THE VALUE OF THOSE IMPORTED. THIS IS REFERRED TO AS SUBSTITUTION FOR DRAWBACK. HOWEVER, THE CANADIAN ACTION IS FUNDAMENTALLY DIFFERENT FROM OUR LAWS ON DRAWBACK IN THAT IT ALLOWS, INTER ALIA, CANADIAN DUTY REMISSION ON CANADIAN PARTS RATHER THAN ON FOREIGN PARTS.

5. THE CANADIAN ACTION, HOWEVER, DOES RESEMBLE ITEM 807 OF THE U.S. TARIFF SCHEDULES--WHICH IMPOSES DUTIES ON ONLY LIMITED OFFICIAL USE

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THE VALUE ADDED TO U.S. GOODS ORIGINALLY EXPORTED ABROAD FOR ASSEMBLY AND THEN IMPORTED BACK IN TO THE U.S. U.S. DUTY IS NOT CHARGED ON THE U.S. COMPONENTS. BUT, UNLIKE THE CANADIAN SCHEME, ITEM 807 REQUIRES THAT THE DOMESTIC COMPONENTS, ON WHICH DUTY IS NOT CHARGED, BE CLEARLY IDENTIFIABLE. THIS PRACTICE IS ALSO WIDELY USED BY GATT MEMBERS, HOWEVER, ITS USE, AS IN THE U.S. CASE, HAS NOT BEEN EXTENDED TO PARTS WHICH POTENTIALLY COULD HAVE

RETURNED TO THE ORIGINAL PRODUCING COUNTRY, BUT RATHER HAS BEEN LIMITED TO PARTS CLEARLY IDENTIFIABLE AND RETURNED.

6. GOC OR EMBASSY EVALUATION OF POSSIBLE TRADE AND PRICE EFFECTS OF REMISSIONS PROVIDED FOR IN ORDER-IN-COUNCIL WOULD ALSO BE USEFUL. ORDER-IN-COUNCIL APPEARS TO GIVE CLEAR PREFERENCE TO PRODUCTS OF COUNTRIES WHICH SOURCE IN CANADA. HOW DO CANADIANS JUSTIFY THIS IN TERMS OF NON-

DISCRIMINATORY TREATMENT OBLIGATION UNDER GATT ARTICLE 1? EMBASSY IN DISCUSSING ORDER-IN-COUNCIL WITH CANADIAN OFFICIALS MAY WISH ALSO TO NOTE THAT ITS PROVISIONS REDUCE THE MARGIN OF PREFERENCE UNDER THE AUTO AGREEMENT AND COULD MAKE MORE DIFFICULT OUR OWN EFFORTS TO RESIST PRESSURES FOR RESTRICTIONS ON IMPORTS OF MOTOR VEHICLES BASED ON SOME FORM OF LOCAL CONTENT REQUIREMENT. MAW

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CUSTOMS DUTIES, SPARE PARTS, AUTOMOBILES, EXPORT SUBSIDIES
Control Number: n/a
Copy: SINGLE
Draft Date: 02 JUN 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: greeneet
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE128197
Document Source: CORE
Document Unique ID: 00
Drafter: DGRIMMER :LV/TREASURY:COUE
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750193-0481
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750688/aaaadczs.tel
Line Count: 131
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 OTTAWA 1924, 75 OTTAWA 1500
Review Action: RELEASED, APPROVED
Review Authority: greeneet
Review Comment: n/a
Review Content Flags:
Review Date: 05 MAY 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <05 MAY 2003 by BoyleJA>; APPROVED <25 SEP 2003 by greeneet>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: REMISSION OF CUSTOMS DUTYS ON FOREIGN AUTOMOBILES WITH CANADIAN COMPONENTS
TAGS: ETRD, CA
To: OTTAWA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006